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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOE 1-2021
CHAPTER 330
DEPARTMENT OF ENERGY

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Change to eligibility criteria for solar contractors under solar plus storage rebate program.

EFFECTIVE DATE: 09/01/2021 THROUGH 02/27/2022

AGENCY APPROVED DATE: 08/31/2021

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NEED FOR THE RULE(S):

The temporary amendment to the rules for the solar plus storage rebate program would change the eligibility criteria for solar contractors who are Energy Trust of Oregon solar trade allies. A majority of the eligible contractors on the Oregon Department of Energy's current list are Energy Trust of Oregon solar trade allies. Existing program rules require Energy Trust solar trade allies to have at least four out of five stars in that organization's certification system. However, since the original program rules were adopted in 2019, Energy Trust has put their internal process for awarding stars to solar trade allies on hold, meaning that newer solar contractors are currently not able to earn additional stars under the Energy Trust trade ally certification system and the star ratings for more experienced solar contractors are not up-to-date. Since the star system is not currently being supported by Energy Trust, requiring a four-star rating or higher in ODOE program rules is not serving the function of ensuring that high quality contractors are registered under the program and is instead locking out newer contractors who are not able to offer solar plus storage program rebates to their prospective customers. Retaining the star rating as an eligibility criterion for contractors who are Energy Trust solar trade allies does not further one overarching purpose of the program which is to support the expansion of the solar installation industry in Oregon.

The Department's temporary amendment to program rules would allow contractors to be eligible to participate in the solar plus storage rebate program if they are Energy Trust of Oregon solar trade allies who are currently eligible to apply for Energy Trust incentives on behalf of their customers. Trade allies who are currently under a disciplinary probationary or suspended status are not eligible to apply for Energy Trust incentives, and therefore would also be unable to register or continue their registration for the solar plus storage rebate program.

The Legislative Assembly has appropriated \$10 million in additional funds to the program under Oregon Laws 2021, chapter 669 (House Bill 5006). The program was inaugurated with an initial appropriation in the 2019 Legislative session of \$2 million, of which \$1.5 million was directed to be used for rebates. The initial appropriation was completely allocated to contractors in 2020. The Department plans to publish a notice in the first half of September of its intention to make a portion of the new funding available for contractors to reserve on behalf of their customers, 30 days in

advance of restarting reservations. The Department believes that having this temporary change in program rules in place before giving notice will help ensure that qualified contractors are able to register under the program, and that prospective customers will be able to find a qualified contractor who can offer rebates for eligible installations. The increased funding available under the program with the 2021 Session appropriation will ensure that contractors who are currently registered with the Department will continue to have ample opportunity to participate, even if the list of eligible contractors is expanded due to this proposed change in program rules. The Department intends to pursue a permanent rulemaking in the last quarter of 2021 or first quarter of 2022 to update the funding allocation dates and contractor eligibility requirements in program rules, and to solicit ideas for additional program improvements during stakeholder outreach and consultation as part of the permanent rulemaking process.

JUSTIFICATION OF TEMPORARY FILING:

- (1) The failure to adopt the proposed temporary rule changes would mean that qualified solar contractors, especially newer contractors, who did not achieve at least four stars in the Energy Trust of Oregon before that organization put a hold on updating its star system, will not be eligible to register with ODOE to participate in the solar plus storage rebate program.
 - (2) Newer contractors who had not yet achieved a four-star rating, as well as potential customers who are unable to find an available contractor, will suffer these consequences.
 - (3) Failure to take rulemaking action will cause qualified contractors who do not have a four star or higher rating with Energy Trust of Oregon to be ineligible to reserve funds on behalf of their customers for the tranche of funding the Department intends to make available in October 2021, after giving a 30-day notice in September 2021. These contractors will be at a competitive disadvantage compared to contractors who were able to achieve a four-star rating before the Energy Trust suspended the implementation of its star rating system, and potential customers will have a smaller pool of contractors to choose from under the program.
 - (4) The temporary action will enable all Energy Trust solar trade allies who are eligible to apply for Energy Trust incentives on behalf of their customers to register with the Department, expanding the pool of contractors able to offer rebates to their potential customers.
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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Laws 2019, chapter 644 (House Bill 5050):

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2019orlaw0644.pdf

Oregon Laws 2019, chapter 655 (House Bill 2618):

<https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/HB2618>

Oregon Laws 2021, chapter 669 (House Bill 5006):

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB5006>

Oregon Administrative Laws, Chapter 330 Division 240:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=5704>

Oregon Revised Statutes, Chapter 469: https://www.oregonlegislature.gov/bills_laws/ors/ors469.html

HOUSING IMPACT STATEMENT:

As required under ORS 183.530 and 183.534, the Department has considered the potential impact of these rules and believes these rules will cause no impact to the following costs for developing a typical 1,200 square foot detached single-family dwelling on a 6,000 square foot parcel of land:

- (1) materials and labor costs
- (2) administrative construction or other costs
- (3) land costs, or
- (4) other costs.

AMEND: 330-240-0020

RULE SUMMARY: The proposed amendment would remove rule language requiring that contractors who are Energy Trust of Oregon solar trade allies must have four out of five stars. Instead, contractors who are Energy Trust of Oregon solar trade allies and who are currently eligible to apply for Energy Trust of Oregon rebates would be eligible to register for and make reservations under the Oregon Solar Plus Storage Rebate Program. This proposed amendment reflects the current status of Energy Trust of Oregon's trade ally certification program.

CHANGES TO RULE:

330-240-0020

Contractor Eligibility

- (1) In order to participate in the program, a contractor must meet the eligibility requirements provided in these rules. Once the Department has confirmed a contractor's eligibility, the contractor will receive login credentials to use the software system designated by the Department to receive and track reservation applications. ¶
- (2) The Department may begin accepting contractor registrations January 1, 2020. The Department may continue to accept new contractor registrations throughout the duration of the program until all funds allocated to the program have been spent or the sunset of the program, whichever comes first. ¶
- (3) A contractor must meet the eligibility requirements listed below and submit appropriate documentation to the Department. The Department will verify the completeness and accuracy of information submitted by a contractor as part of the contractor registration process. ¶
 - (a) A contractor that constructs or installs a solar electric system or paired solar and storage system, or a subcontractor that constructs or installs a solar electric system or paired solar and storage system on behalf of a contractor that offers such systems for sale, must hold any license, bond, insurance or permit required to construct or install a solar electric system or a paired solar and storage system. The contractor or any subcontractors performing construction or installation must maintain all applicable licenses, bonds, insurance or permits throughout the construction and installation period until the solar electric system or paired solar and storage system is complete. ¶
 - (b) ~~If the contractor is an Energy Trust of Oregon solar trade ally, the contractor must have at least four stars in the five-star rating system.~~ If the contractor is an Energy Trust of Oregon solar trade ally who is currently eligible to apply for Energy Trust of Oregon incentives on behalf of customers, the contractor is eligible to register for the program and make reservations under the program. Contractors are required to notify the Department within five business days of becoming ineligible to apply for Energy Trust of Oregon incentives. ¶
 - (c) If the contractor is not an Energy Trust of Oregon solar trade ally, the contractor must meet at least one of the following requirements: ¶
 - (A) The contractor either holds, or employs an individual holding, the PV Installation Professional (PVIP) certification administered by the North American Board of Certified Energy Practitioners (NABCEP), or the contractor employs both a PV Installer Specialist (PVIS) certified by NABCEP and a person with the NABCEP PV Technical Sales (PVTs) certification. ¶
 - (B) The contractor is identified as an approved solar PV installer on a list maintained by an electric utility as defined in ORS 757.600 serving customers in Oregon. ¶

(4) The Department reserves the right to verify all applicable licenses, bonds, insurance, permits or certifications of a contractor at any time, including a contractor's status as a solar trade ally with Energy Trust of Oregon.

Statutory/Other Authority: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

Statutes/Other Implemented: Oregon Laws 2019 chapter 655 (House Bill 2618)